



**Commodity Futures Trading Commission**  
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## Testimony

### **Oral Testimony of Chairman Gary Gensler Commodity Futures Trading Commission Before the House Financial Services Committee**

**July 22, 2009**

Good morning Chairman Frank, Ranking Member Bachus and Members of the Committee. Thank you for inviting me to testify about the President's White Paper on regulatory reform. I am here today testifying on behalf of the Commission.

Financial regulatory reform is critical for the health of our economy. As President Obama outlined last month, we must urgently enact broad reforms in our financial regulatory structure in order to rebuild and restore confidence in our financial system.

I would like to start by discussing the reforms most relevant to the Commodity Futures Trading Commission (CFTC). First and foremost, I believe that we must enact broad regulatory reform of the over-the-counter derivative markets. This will require two complementary regimes – one for regulation of the dealers (or actors) and one for regulation of the market (or stage).

For dealers, we should set capital standards and margin requirements to help lower risk. We should set business conduct standards to guard against fraud, manipulation, and other market abuses. We should also mandate recordkeeping and reporting to promote transparency.

This dealer regulation will cover all OTC derivatives, both standardized and customized.

We should also regulate the market functions. We should require that all derivatives that can be moved into central clearing have a requirement to be cleared through regulated central clearing houses to further lower risk. To further promote transparency, we should require OTC derivatives come onto regulated exchanges or regulated transparent electronic trading systems.

Requiring clearing and trading on exchanges or regulated transparent electronic trading systems will promote transparency and market integrity and lower systemic risks. Through clearing, firms, rather than having exposures to each other, would have a clearinghouse that is subject to the daily discipline of mark-to-market and daily posting of collateral to serve as an intermediary.

To fully achieve these objectives, we must enact both of these complementary regimes. Regulating both the traders and the trades will ensure that we cover both the actors and the actions that may create significant risks.

President Obama last month called for recommendations for changes to statutes and regulations that would harmonize regulation of the futures and securities markets. I believe that this is essential.

Specifically, there are three areas where CFTC/SEC harmonization would benefit the American Public.

First, as we saw last year, there are significant gaps in our financial regulatory system. Unregulated OTC derivatives pose a threat to our financial system, and we must act urgently to move them into regulated clearinghouses.

Second, there are areas where CFTC and SEC regulation overlap. While in some cases this may be beneficial to the American people, we must look further into how overlapping regulation could impact the effectiveness of our statutes.

Third, there are areas where the CFTC and SEC both apply regulations, but do it differently. I believe that we must look harmonizing our regulatory system in this area.

As we work with Congress to apply regulations to OTC derivatives, I believe that we have a real opportunity to establish a consistent statutory framework from the outset. I look forward to working with this Committee to establish authorities to regulate OTC derivatives and swaps, and I believe that if we set out on the right track, we can avoid CFTC/SEC jurisdictional issues later.

I would also like to briefly touch on hedge funds. I support the broad approach of the Administration to require hedge funds and other index funds to register with the SEC. I do, however, believe that we should ensure all of these entities also comply with the protections established in the Commodity Exchange Act, particularly on fraud, manipulation and compliance with position limits. I believe that the CFTC should have full access to the information collected by the SEC to protect our markets and consumers.

I'm fortunate to have as a partner in this effort, SEC Chair Mary Schapiro. She brings invaluable expertise, which gives me great confidence that we will be able to provide the Congress with sound recommendations for comprehensive oversight of the OTC derivatives market. We also will work collaboratively on recommendations on how to best harmonize regulatory efforts between agencies as outlined by President Obama.

President Obama has called for action to strengthen market integrity, lower risks, and protect investors. I look forward to working with the Members of this Committee and others in Congress to accomplish this goal.

Thank you again for the opportunity to testify. I look forward to answering any questions you may have.